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ADMINISTRATION OF JUSTICE

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES AND MINORITIES

Memorandum submitted by the International Labour Office

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Introduction

1. The present memorandum submitted by the International Labour Office to the fifty-third session of the Sub-Commission for the Promotion and Protection of Human Rights contains general information on the ILO activities related to human rights, as well as specific points on issues of relevance to items 3, 4 and 5 of the provisional agenda. The ILO is working for the protection and promotion of fundamental rights and freedoms in a number of areas through standard setting, its supervisory system, technical assistance and policy advice.

2. The purpose of the memorandum is to draw the Sub-Commission's attention to a number of ILO activities, to inform its considerations and to facilitate its work. Naturally, a selection of the most pertinent and recent developments had to be made. The memorandum is part of the ILO's commitment to engage in an active partnership with the United Nations on human rights matters. It hopes that the memorandum will be a useful tool to the members of the Sub-Commission, observers and non-governmental organizations, serving as a source of information as well as a reference guide.

I. GENERAL INFORMATION

A. The ILO Declaration on Fundamental Principles and Rights at Work

3. At its 86th session (June 1998) the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work, and its Follow-up. The Declaration is intended to reaffirm the commitment of all member States of the ILO to the fundamental principles and rights which are incumbent on all countries by the very fact of their membership in the Organization, even if they have not yet been able to ratify the corresponding conventions. These principles are: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect to employment and occupation. The Follow-up to the Declaration is promotional in nature and its purpose is to encourage member States to promote fundamental principles and rights at work. It involves a review of annual reports, a global report and conclusions about technical cooperation priorities.

4. Reporting under the Declaration is based upon the constitutional obligation of member States to provide reports on the position of their law and practice in relation to Conventions they have not ratified (ILO Constitution, art. 19 (5) (e)). The Follow-up provides an opportunity to review the efforts made in accordance with the Declaration by member States which have not yet ratified all the fundamental Conventions. The annual reports of member States are compiled by the International Labour Office and subsequently reviewed by a group of Expert-Advisers, whom the Governing Body appointed in November 1999. The Governing Body then reviews the compilation of annual reports accompanied by an analytic introduction by the Expert-Advisers. The results of this review are to be taken into account when finalizing the global report.

5. Global reports are being prepared each year on the principles concerning the fundamental rights contained in the Declaration. The first global report in 2000 focused on freedom of association and collective bargaining, while the 2001 global report was dedicated to the issue of

forced labour.[1] The latter report shows that forced labour in various forms continues to be a serious concern around the globe. It addresses, inter alia, forced labour practices in public works, in agriculture and rural areas, the situation of domestic workers, as well as questions related to bonded labour and trafficking. The global reports in 2001 and 2003 will deal with child labour and non-discrimination respectively, and in 2004 the rotation will begin again.

6. After the Global Reports are discussed in the ILO Conference, the Governing Body at each November session draws up and adopts a plan of action for ILO technical assistance to assist the countries in implementing the principles covered in that year's global report. Assistance on the Declaration has included a variety of activities such as national seminars, translations of the ILO Declaration into national languages and assistance to prepare the annual reports. As a result of this year's discussion of the Global Report on Forced Labour the International Labour Office proposes, inter alia, to establish a special programme on labour.

B. Adoption of new conventions

1. The Maternity Protection Convention, 2000 (No. 183)

7. The International Labour Conference, taking into account the circumstances of women workers and the need to provide protection for pregnancy and maternity, adopted at its 88th session (June 2000) the Maternity Protection Convention (No. 183) which revises the Maternity Protection Convention (Revised), 1952 (No. 103). The Convention applies to all employed women without discrimination, including those in atypical forms of dependent work.

8. The Convention provides that each member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child. Under the Convention, women shall be entitled to a period of maternity leave of not less than 14 weeks. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the Government and the representative organizations of employers and workers.

9. The Convention further states that cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on maternity leave or leave in case of illness or complications. Under the Convention it is unlawful for employers to terminate the employment of a woman during her pregnancy or absence on leave, or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences, or nursing. In this respect it is important to note that the Convention places on the employer the burden of proof that the reasons of dismissal are unrelated. Women are guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of maternity leave. Each member is obliged to adopt measures to ensure that maternity does not constitute a source of discrimination in employment. Pregnancy tests or certificates of such tests when a woman is applying for employment are specifically prohibited.

2. The Safety and Health in Agriculture Convention, 2001 (No. 184)

10. Most recently, the International Labour Conference adopted at its 89th session (June 2001) the Safety and Health in Agriculture Convention (No. 184) and an accompanying Recommendation No. 192. The instruments were adopted against the background of estimates that about half of the world's annual 1.2 million occupational fatalities occurred in agriculture. The issues covered by the Convention and the Recommendation have a direct bearing on the enjoyment of agricultural workers of their right to just and favourable working conditions, which includes aspects of safety and health, as recognized, for example under article 23 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Economic, Social and Cultural Rights.

11. The standard-setting process had to deal with aspects that made the preparation of a Convention dealing with agriculture more problematic than those dealing with other sectors. These included the fact that agricultural technology varies widely, as well as the fact that much agriculture is still in the informal sector, with only an estimated 5 per cent of agricultural workers worldwide subject to supervision by labour inspectorates and having some legal protection. The scope of the Convention encompasses four main areas: crop production; animal and insect breeding; primary processing of agricultural and animal products; and use of appliances, tools, machinery, etc. It excludes subsistence farming, agro-industries, forest industries and certain undertakings and categories of workers to be determined after tripartite consultation.

12. Under the Convention, members shall formulate, carry out and periodically review a coherent national policy on safety and health in agriculture. This policy shall have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work by eliminating, minimizing or controlling hazards in the agricultural working environment. The Convention places on the employer the duty to ensure the safety and health of workers in every aspect related to the work, insofar as compatible with national laws and regulations. The minimum age for assignment to work in agriculture which, by its nature or the circumstances in which it is carried out, is likely to harm the safety and health of young persons, shall generally not be less than 18 years. Workers in agriculture shall have the right to be informed and consulted on safety and health matters, including risks from new technologies, and to participate in the application and review of safety and health measures.

C. Ongoing standard setting

Promotion of cooperatives

13. In March 1999, at its 274th session, the Governing Body decided to include in the agenda of the 89th session (2001) of the International Labour Conference the question of the promotion of cooperatives, with a view to adopting a revised standard in the year 2002. The promotion of cooperatives contributes to the realization of economic, social and cultural rights, as well as the right to development. Cooperatives are known to be schools of participation, which is a concept of major importance contained in the 1986 Declaration on the Right to Development and the 1993 Vienna Declaration and Programme of Action.

14. A number of international labour standards make direct or indirect reference to cooperatives, but the only comprehensive international standard on cooperatives is the Cooperatives (Developing Countries) Recommendation, 1966 (No. 127). Accordingly, the International Labour Office prepared a report to the International Labour Conference in June 2001 containing an introduction to the question, an examination of the changing environment of cooperatives in developing, transition and industrialized countries, and an analysis of the prerequisites for success in the promotion of cooperatives based on the law and practice in various countries.[2] The report highlights the advantages to nations of having strong cooperatives as one of a variety of forms of private sector organization, and their ability to play a constructive role in both economic life and within civil society - not least, their potential to generate and sustain employment, to support entrepreneurship and wealth creation and to provide much-needed social services in the face of the reduced capacity of the State to do so. The report concludes that Recommendation No. 127 should be revised to provide an appropriate framework for promotion of cooperatives in the twenty-first century which is universal in its application, emphasizes the position of cooperatives as privately owned member-controlled organizations, and recognizes their need to function within a competitive environment and to sustain their identity, having a distinctive role both as economic enterprises and within civil society.

15. Having discussed the report, and taking into consideration the replies to the questionnaire that had been sent to Governments, the International Labour Conference decided that a new Recommendation of universal character on the promotion of cooperatives should be adopted at its session in 2002. The instrument should, inter alia, encourage the promotion and strengthening of the identity of cooperatives based upon cooperative values of self-help, self-responsibility, democracy, equality, equity and solidarity, as well as internationally recognized cooperative principles of voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education, training and information, cooperation among cooperatives, and concern for community. Further, it was decided that the new Recommendation should provide that member States should adopt measures to promote the potential of cooperatives in all countries, irrespective of their level of development, to assist their membership to: (a) create and develop income-generating activities and sustainable decent employment; (b) develop human resource capacities and knowledge of the values of the cooperative movement through education and training; (c) gain access to markets and to institutional finance; (d) increase savings and investment; and (e) improve social and economic well-being, taking into account the need to eliminate all forms of discrimination. Another feature of the instrument will be that States should provide a supportive policy and legal framework and take appropriate measures to facilitate international cooperation.

D. Ratification of ILO conventions

16. The trend towards increased ratification of ILO conventions is continuing. In particular, there has been a large number of ratifications of conventions on subjects relating to concerns of the Sub-Commission. This has partly been the result of the ratification campaign launched by the Director-General following the World Summit for Social Development (Copenhagen, 1995) for the eight fundamental human rights Conventions of the ILO (Nos. 29 and 105 concerning forced labour, Nos. 87 and 98 on freedom of association and collective bargaining, Nos. 100 and 111 on discrimination, and Nos. 138 and 182 on child labour). The ILO Area Offices and multidisciplinary teams in the field follow up Governments' indications on ratifications, and

assistance in overcoming obstacles to ratification is made available. The table below summarizes the ratifications as of 21 June 2001 of those among the 184 ILO conventions which are of special relevance for human rights,[3] while countries having ratified since the last report[4] are listed in the annex:

Convention	Total ratifications	Since last report
Forced Labour		
No. 29	158	8
No. 105	154	14
Discrimination		
No. 100	153	13
No. 111	149	12
No. 156	33	5
Freedom of Association		
No. 87	136	13
No. 98	149	9
Migrant Workers		
No. 97	41	-
No. 143	18	-
Indigenous and Tribal Peoples		
No. 107	27	No longer open for ratification
No. 169	14	1
Minimum Age		
No. 138	109	33
No. 182	82	82
Vocational Rehabilitation		
No. 159	73	8

17. In addition, the various promotional efforts within the framework of the Director-General's ratification campaign and the technical assistance provided by the multidisciplinary advisory teams working closely with the regional offices and the relevant headquarters units have resulted in a large number of other ratifications being undertaken or examined by the competent national authorities. The establishment of the Infocus Programme to Promote the Declaration on Fundamental Principles and Rights At Work also had a positive impact on the number of ratifications of fundamental human rights conventions.

E. Application by Myanmar of the Forced Labour Convention, 1930 (No. 29)

18. For some years the ILO has been following the application by Myanmar of this fundamental Convention. After the conclusion of a Commission of Inquiry in 1998, the Conference decided at its 88th session (2000) to apply article 33 of the Constitution which allows it to take "such measures as it may deem wise and expedient" to secure the observance of the recommendations of the Commission of Inquiry. This is the first time the ILO has found it necessary to apply this article.

19. One of the measures envisaged was to hold a special sitting of the Application of Standards Committee of the Conference at the 2001 session. The Conference welcomed the decision by the Government of Myanmar to resume cooperation with the ILO, and noted the conclusion of an understanding in May 2001 to send a "High-Level Team" to Myanmar to conduct an objective assessment of the situation of forced labour in that country. The Committee insisted that the High-Level Team, whose members are to be chosen by the ILO Director-General, be provided with sufficient authority to programme its activities while in Myanmar, including the right to carry out its investigation in all parts of the country and with unrestricted access to all necessary sources of information. It also added that "those people who provided information to the Team must enjoy full social protection". The Team will report to the ILO Governing Body, which meets in November. The Government of Myanmar has promised freedom of movement, access to people, and protection of witnesses.

F. Collaboration with the United Nations and other international organizations

20. The ILO considers relationships and collaboration with the United Nations system, the Bretton Woods institutions, and other regional and international organizations of critical importance. The Director-General of the ILO has called for global partnerships that are substantive and task oriented. In the field of human rights, the ILO has continued to collaborate with other international organizations on issues such as freedom of association, discrimination in employment and occupation, equal opportunities of men and women in employment, indigenous and tribal peoples, migrant workers, forced labour, child labour, and other questions falling within the mandate of ILO.

21. ILO regularly takes an active part in the Commission on Human Rights and in the Sub-Commission on Promotion and Protection of Human Rights, including the Sub-Commission's working groups on indigenous populations, on minorities, on contemporary forms of slavery, and on the right to development. The ILO's presence and active involvement in these forums aims at providing information about relevant ILO activities, substantial input in the debate, as well as offering, as appropriate, specialized expertise in areas falling within the ILO's mandate. The ILO cooperates with various thematic and country-specific mandates of the Commission on Human Rights. It has recently made contact with the newly appointed Special Representative of the Secretary-General on human rights defenders in order to discuss future cooperation as regards trade unionists.

22. The ILO also continued to work closely with the various treaty bodies established to supervise United Nations human rights instruments, in particular the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. ILO's contribution to the work of the treaty bodies has the objective of ensuring coherence between United Nations treaty bodies and the supervisory bodies of the ILO. Indeed, the Committee of Experts increasingly makes reference in its comments to reports submitted by Governments to United Nations treaty bodies and findings and recommendations made by them. In the field of economic, social and cultural rights, ILO standards and the experience acquired in their supervision are most relevant in further defining the content of related United Nations standards and in applying the concept of progressive realization of these rights. The body of experience built up by the Committee of Freedom on Association is a valuable and authoritative source. In addition to the systematic submission of written reports containing information from the ILO's supervisory system on countries under examination, the ILO regularly briefs these United Nations committees on work-related issues and participates in the meeting of the chairpersons of the treaty bodies and other initiatives. Constant efforts are made to strengthen coordination and collaboration between the ILO and the treaty bodies. At the most recent meeting of chairpersons, the ILO undertook to enhance further awareness and use of the treaty body's conclusions and recommendations within the ILO, in particular at the field level, and vice versa.

23. The ILO has continued its efforts to maintain a constructive synergy between its work and the activities of the Office of the High Commissioner for Human Rights, a synergy that is to be pursued in accordance with a specific decision to this effect taken by the Governing Body. Workshops on the application of international human rights instruments and joint briefing sessions with other United Nations agencies for country or thematic rapporteurs have been organized. The ILO has also been called upon to supply a large amount of information on specific themes and various countries to the United Nations High Commissioner for Human Rights to assist her in fulfilling her mandate. The Office has recently participated in the inter-agency follow-up meeting on the fifty-seventh session of the Commission on Human Rights convened by the Office of the High Commissioner in June 2001.

24. The ILO is an active partner in the inter-agency consultations on the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Together with the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Office of the High Commissioner for Human Rights, the ILO is preparing a resource book on racism, xenophobia, migration and refugees to be presented at the World Conference. A series of workshops on discrimination in the world of work are being jointly organized with the Office of the High Commissioner, both in the lead-up to Durban and during the Conference. In addition to the ongoing collaboration with the Office of the High Commissioner on indigenous issues within the framework of the International Decade of the World's Indigenous People (1995-2004), the ILO also participates in an inter-agency effort to prepare for the launching of the Permanent Forum on Indigenous Affairs in 2002. Further, the ILO is a member of the intergovernmental organization contact group on trafficking, bringing together ILO, UNHCHR, IOM and the Office of the High Commissioner for Human Rights.

25. The ILO participated in the twenty-fourth special session of the United Nations General Assembly, entitled "World Summit for Social Development and Beyond: Achieving Social Development for All in a Globalizing World", which was held in Geneva from 26 June to 1 July 2000 (Copenhagen+5). The ILO was also strongly involved in the twenty-third special session of the United Nations General Assembly, entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", which was held in New York from 5 to 9 June 2000, as well as the preparatory process for it. The agreed text calls, inter alia, for the respect, promotion and realization of the principles contained in the ILO Declaration on Fundamental Principles and Rights at Work and asks Member States to strongly consider ratification and full implementation of ILO Conventions which are particularly relevant to ensuring women's rights at work. The ILO continues to cooperate with the relevant parts of the United Nations to make further progress in the implementation of the Platform for Action agreed at the Fourth World Conference on Women (Beijing, 1995) and the outcome of the World Summit for Social Development.

26. The ILO is working with the Bretton Woods institutions to build the goals of employment and decent work into country-level poverty reduction strategies and is strongly involved in the United Nations Secretary-General's Global Compact initiative. Another critical alliance is the United Nations Policy Network on Youth Employment, a partnership between the United Nations, the World Bank and the ILO, to determine what works in combating youth unemployment. The ILO collaborates with the United Nations Conference on Trade and Development (UNCTAD) on making employment part of the strategy for the least developed countries, with UNICEF on child labour, with several United Nations bodies on crisis response and reconstruction, with the World Health Organization (WHO) on safe work, with UNAIDS on the code of practice on HIV/AIDS in the world of work, and with the United Nations Development Programme (UNDP) and the United Nations Development Fund for Women (UNIFEM) on microfinance. At the country level, the ILO is active in the United Nations Development Assistance Framework (UNDAF) to ensure that its constituents' priorities are effectively pursued through substantive partnerships for development cooperation.

II. ADMINISTRATION OF JUSTICE (ITEM 3)

Privatization of prisons and prison labour

27. Having in mind that the Sub-Commission has previously discussed the issue of the privatization of prisons, it should be noted that the Committee of Experts, in its general report to the 2001 International Labour Conference, included a section on the privatization of prisons and prison labour in respect to the application of the Forced Labour Convention, 1930 (No. 29).[5] This provides a useful guide as to how Convention No. 29 should be applied, for the benefit of those member States which have ratified the Convention and for those contemplating doing so.

28. The Committee had stated earlier in relation to article 2 (2) (c) of Convention No. 29 that the question of prisoners being, in the words of the Convention, "hired to or placed at the disposal of private individuals, companies or associations" merited fresh attention. In its general observation of 1999, the Committee had asked Governments to include in their next reports information as to the present position in law and practice on whether there are prisons administered by private concerns, profit-making or otherwise; and whether any private prison

contractors deploy prisoners to work either inside or outside prison premises, either for the account of the contractor or for that of another enterprise. The Committee also had asked a certain number of questions concerning the conditions under which such arrangements operated, where they existed. In the absence of a sufficient number of responses, the Committee analysed in its general report earlier discussions of the Conference Committee on the Application of Conventions and Recommendation as well as the application of the relevant provisions of Convention No. 29 to the issue of private prisons and the use of prison labour by private companies.

29. The Committee was fully aware that there is a trend in some countries towards increased use of privatized prison labour, often based on a perceived need for the Governments to generate income to cover the costs of a growing prison population, or in a sincere attempt to provide skills for the purposes of rehabilitation, or even to provide sources of income for prisoners from which family expenses of prisoners or restitution for victims can be drawn. In the view of the Committee, it is fully possible for countries to apply Convention No. 29 when designing or implementing a system of privatized labour, but they must do so on the understanding that such involvement carries with it additional requirements and the need for a thorough analysis. There was a need to protect a captive workforce who are increasingly working in direct competition with a free labour market, and a need to avoid unfair competition with free workers. Clearly, the fact that they had been convicted of crimes did not mean that prisoners should not have rights otherwise available to citizens, even less so when they are employed in productive work for private employers. Issues of voluntariness, including consent and conditions which approximate free labour, would continue to be matters which require careful consideration by States in attempting to reconcile the various imperatives in their own particular context. The issue was discussed at length during the 2001 session of the International Labour Conference.

III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ITEM 4)

A. Globalization

30. In order to better reflect the real direction in which its mandate had evolved, the Governing Body decided in March 2000 to rename the Working Party on Social Dimensions and of the Liberalization of Trade as the Working Party on the Social Dimensions of Globalization. It was understood that this concept covers, inter alia, the liberalization of trade, which was the original purpose for establishing the Working Party. In the discussion in the Governing Body emphasis was placed on the advantages offered by the Working Party in order to promote an integrated approach between the ILO and the rest of the international community dealing with the interaction of economic and social issues within the globalization process. It was stressed that the ILO should take this issue forward based on comparative advantages, particularly its knowledge base and its tripartite structure. Indeed, the Working Party is well placed to develop further knowledge, to prepare and discuss policy positions, and to work on consensus-building, while promoting understanding between the various international institutions dealing with matters related to the issue.

31. In November 2000, the Working Party discussed the role of freedom of association and collective bargaining in a globalizing world.[6] At its June 2001 session the Working Party discussed means of enhancing its action. The background report prepared by the Office stated that addressing the social dimensions of globalization requires measures both at the national and international level. More inclusive, transparent and participatory international decision-making was required to ensure that the benefits of globalization are accessible to all on an equal basis. To make globalization fully inclusive and equitable, it was essential to adopt policies and measures at the global level which correspond to the needs of the developing countries and are formulated and implemented with their effective participation.[7]

32. The Governing Body decided to take certain measures to enhance the Working Party's technical capability, and that the Working Party would hold high-level meetings on an ad hoc basis in the future. A first high-level meeting was held in March 2001, with the participation of the Secretary-General of UNCTAD and the United Nations High Commissioner for Refugees. Further, the Director-General was authorized to proceed with consultations on the establishment of a commission of eminent personalities with outstanding knowledge and experience of the social dimensions of globalization which will be charged with drawing up a major, authoritative report that makes a comprehensive in-depth analysis of the social dimensions of globalization, particularly the interaction between the global economy and the world of work.

B. The right to social security

33. International instruments adopted by the ILO and the United Nations affirm that every human being has the right to social security. In the Declaration of Philadelphia (1944) the International Labour Conference recognized the ILO's obligation as regards "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care". The ILO's Income Security Recommendation, 1944 (No. 67), provides that "social insurance should afford protection, in the contingencies to which they are exposed, to all employed and self-employed persons, together with their dependants" (para. 17). The Universal Declaration of Human Rights, 1948, states that "everyone, as a member of society, has the right to social security ..." (art. 22), and refers specifically to the right to medical care and necessary social services, to security in the event of sickness, disability, widowhood, old age and unemployment, and to special care and assistance for motherhood and childhood (art. 25). The International Covenant on Economic, Social and Cultural Rights, 1966, recognizes "the right of everyone to social security, including social insurance" (art. 9).

34. The Committee of Experts, commenting on the application of the ILO Conventions on social security, stated in its 2001 general report that international labour standards on social security help materialize the aspiration, set forth in the Universal Declaration of Human Rights, that the fundamental human right to social security will be protected by the rule of law. The Conventions are aimed at providing the broadest possible protection in terms of personal coverage, risk coverage and adequate level of compensation. They aim to strengthen social cohesion by promoting solidarity between active and non-active members of society, between rich and poor and between present and future generations.

35. Based on a 1999 decision of the Governing Body, the International Labour Conference held its 2001 general discussion on social security. The objective of this discussion was to strengthen the ILO vision of social security in order to respond to the new issues and challenges facing social security, while continuing to be rooted in the basic principles of the ILO. The report prepared by the International Labour Office for this purpose covered a wide range of key issues to be taken into consideration, including coverage of social protection, gender equality, sustainable financing and the intersection of social security, employment and development.[8] The Conference affirmed, inter alia, that social security was a basic human right and a fundamental means for creating social cohesion, thereby helping to ensure social peace and social inclusion. It was an indispensable part of government social policy and an important tool to prevent and alleviate poverty. It can, through national solidarity and fair burden-sharing, contribute to human dignity, equity and social justice. It was also important for political inclusion, empowerment and the development of democracy.

36. The conclusions adopted by the Conference further state that social security, if properly managed, enhances productivity by providing health care, income security and social services. In conjunction with a growing economy and active labour market policies, it was an instrument for sustainable social and economic development. It facilitates structural and technological changes which require an adaptable and mobile labour force. It was noted that while social security is a cost for enterprises, it is also an investment in, or support for, people. With globalization and structural adjustment policies, social security becomes more necessary than ever. Other conclusions by the Conference dealt with the diversity of models of social security, the role of the State and good governance, and the extension of coverage.

C. Multinational enterprises

37. Through its Multinational Enterprises Department the ILO pursues its objective of widespread observance of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) adopted in 1977 as a framework for action by Governments, workers, employers, and multinational enterprises (MNEs) to address the labour and social benefits and difficulties that may arise in the context of foreign direct investment and the activities of MNEs. The International Labour Office carries out follow-up surveys and responds to requests for interpretation of the MNE Declaration, services the Governing Body Subcommittee on Multinational Enterprises and Social Policy, undertakes promotional activities and research on labour and social areas of MNE activities, and issues publications on current issues in country, regional, sectoral or global contexts. The seventh survey on the effect given to the MNE Declaration was presented to the Governing Body at its March 2001 session.[9]

38. The principles laid down in the MNE Declaration offer guidelines to MNEs, Governments, and employers' and workers' organizations in such areas as employment, training, conditions of work and life, and industrial relations. Its provisions are reinforced by certain international labour conventions and recommendations which the social partners are urged to bear in mind and apply, to the greatest extent possible. The adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998 highlighted the importance of the fundamental conventions in realizing the objectives of the ILO, and consequently, the MNE Declaration takes into account the objectives of the 1998 Declaration.

39. Today, the prominent role of MNEs in the process of social and economic globalization renders the application of the principles of the MNE Declaration as timely and necessary as they were at the time of adoption. As efforts to attract and boost foreign direct investment gather momentum within and across many parts of the world, the parties concerned have a new opportunity to use the principles of the Declaration as guidelines for enhancing the positive social and labour effects of the operations of MNEs.

IV. PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES AND MINORITIES (ITEM 5)

40. The ILO has a wide range of activities on different aspects of discrimination.

A. Application of conventions concerning discrimination

41. Within the framework of the regular procedures for the supervision of ILO conventions and recommendations, the Committee of Experts on the Application of Conventions and Recommendations addressed a number of comments, which take the form of "observations" and "direct requests", to ratifying States at its November-December 2000 session, which are contained in its report to the 89th session of the International Labour Conference.[10]

42. As in previous years, as concerns discrimination in particular, the Committee's comments reflect concerns with regard to the effective implementation of provisions prohibiting gender-based wage discrimination, discrimination in employment and occupation on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, and employment-related discrimination against workers with family responsibilities and migrant workers. The Committee's comments also address issues relevant to discrimination against indigenous and tribal peoples, particularly with respect to their ability to participate effectively in the formulation and implementation of measures that affect them. During the reporting period, Governments continued to seek the assistance of the Office to overcome obstacles to ratification of ILO conventions relevant to discrimination in employment and occupation, as well as to address difficulties in implementing the principles contained in those instruments. As regards the special procedures of the supervisory machinery, it is worth noting that a number of representations have been filed in recent years on the application of Convention No. 169, for the first time. Representations are forms of complaint provided for in the ILO Constitution for allegations that ratified conventions are not being fulfilled. While it is difficult to characterize the problems raised in these representations on too general a basis, they tend to indicate a lack of effective involvement of these peoples in decisions taken at the national level which affect them, in relation particularly to land rights and development issues.[11]

B. General activities for the prevention of discrimination

43. Numerous regional and subregional tripartite seminars and symposia were carried out during 2000 by the Equality and Employment Branch of the International Labour Standards Department (EGALITE), in collaboration with other programmes, to promote ILO standards on equality of opportunity and treatment in employment and occupation, including: a national seminar on Conventions Nos. 100 and 111 held in Tallinn (April 2000); a tripartite subregional East African seminar for Kenya, the United Republic of Tanzania and Uganda on discrimination

in the world of work in Uganda (April 2000); two national seminars on Convention No. 111 in Yinchuan and Guiyang, China (September 2000); a seminar in Hong Kong on equal remuneration (March 2000); and an intensive training course and seminars in Brasilia (May 2000) for special labour inspection units of the Brazilian Ministry of Labour and Employment, established as the result of a prior ILO project carried out in 1997/98. The course focused on various aspects of discrimination as well as on the development of the mechanisms necessary to enforce the national non-discrimination legislation and to promote the application of ILO standards in Brazil. ILO participated in a subregional meeting for EU accession countries on Convention No. 100 in Malta (September 2000), national seminars on fundamental labour principles and rights in Poland (January 2000) and a national training seminar on women's human rights in Pakistan (May 2000). Further technical assistance on Convention No. 100 was provided to the Czech Republic, Cyprus and Hong Kong Special Administrative Region. A subregional training seminar for judges on discrimination issues for eastern Africa was held in May 2001.

C. Action against HIV/AIDS

44. New ILO data prepared for the United Nations General Assembly special session on HIV/AIDS (25-27 June 2001) shows that at least 23 million workers aged 15-49 - the most productive segment of the labour force - carry the HIV virus. About 17.5 million, or the vast majority, are in 43 African States. Data for other regions of the world show some 3.5 million people with HIV in Asia, 700,000 in North America, 226,000 in the Caribbean, 416,000 in Latin America and 543,000 in Europe.

45. HIV/AIDS is devastating the lives of individuals, their families and communities. In the most affected countries, the epidemic is undermining decades of development gains. Its effects on enterprises and entire national and regional economies are momentous. Discrimination against HIV-positive persons (or even persons suspected of carrying the virus) worsens existing inequalities in society. Screening people for HIV infection in order to bar them from work, deny them promotion or exclude them from social protection and benefits counts as AIDS-related discrimination. So do breaches of confidentiality or the refusal to establish alternative workplace arrangements for workers with HIV/AIDS. Gender inequality - linked to patterns of social, economic and cultural inequality - makes more women vulnerable to infection. As the epidemic spreads, women are faced with the double burden of having to work and cope with the additional responsibilities of providing care and support to family and community members who fall ill.

46. The International Labour Conference adopted at its 88th session in June 2000 a resolution concerning HIV/AIDS and the world of work, requesting member States, employers' and workers' organizations, as well as the Director-General to take a series of measures to address the issue. The Director-General has subsequently established a Programme on HIV/AIDS and the World of Work to coordinate the Office's work on the issue. The Programme aims at strengthening the capacity of Governments and social partners in member States to formulate and implement effectively national action plans on HIV/AIDS through workplace initiatives. Given the multisectoral nature of the problem, HIV/AIDS is be mainstreamed into all ILO activities. In the global struggle against HIV/AIDS, the ILO is building coalitions and creating partnerships at the international level, particularly with UNAIDS.

47. In June 2001, the ILO adopted a Code of Practice on HIV/AIDS and the World of Work.[12] The Code was subsequently launched by the Director-General at the special session on HIV/AIDS of the United Nations General Assembly. The fundamental aim of the Code is to help safeguard conditions of decent work and protect the rights and dignity of workers and all people living with HIV/AIDS. The Code is intended to help prevent the spread of the epidemic, mitigate its impact on workers and their families, and provide social protection that can help them cope with the disease. The Code provides practical guidance to Governments, employers' and workers' organizations, as well as other stakeholders for developing national and workplace HIV/AIDS policies and programmes. The Code addresses several important issues, including preventing infection through information, education and gender-awareness programmes, and by promoting behaviour change. It covers the protection of workers' rights, including employment protection, gender equality, entitlement to benefits and non-discrimination on the basis of HIV status. It also deals with the challenges of care and support.

48. The Office has prepared a number of publications on HIV/AIDS and the world of work, including most recently a comprehensive report entitled "HIV/AIDS: A threat to decent work, productivity and development", which was discussed at the Special High-Level Meeting on HIV/AIDS and the World of Work during the ILO Conference in June 2000. As regards technical cooperation activities, the Caribbean Area Office has recently carried out fact-finding missions to Jamaica, Suriname and Trinidad and Tobago, which have led to the development of a project proposal to be funded by the United States on the tripartite response to HIV/AIDS in the world of work in the Caribbean, and issues of discrimination are a significant part of the political and legal aspects of the project. A round table was held at the ILO Caribbean Area Office to explore approaches to tackling the spread of the disease and dealing with its impact on work.

D. The situation of Arab workers in the occupied Arab territories

49. At the 89th (2001) session of the International Labour Conference, the constituents of the ILO discussed, in a special sitting, the Director-General's most recent report on the situation of workers of the occupied Arab territories.[13] Since 1978, through missions sent to Israel and the occupied territories, including the Golan, ILO has been fulfilling its mandate to monitor the situation of Palestinian workers and has documented how their interests and those of Palestinian employers can be improved by the provision of adequate and appropriate technical assistance. This year, a mission representing the Director-General visited Israel and the occupied Arab territories from 26 April to 6 May 2001. Another mission visited the Syrian Arab Republic from 9 to 11 May 2001. The report is based on information collected during these missions and from a variety of sources, including the Government of Israel and the Palestinian Authority, employers' and workers' organizations and various United Nations agencies.

50. The report includes information on the conditions of work and employment of the workers of the occupied Arab territories in such areas as the promotion of employment, equality of opportunity and treatment in employment, access to the labour market, working conditions, social security, poverty alleviation and industrial relations. It indicates that the events since September 2000 have had a tragic impact on the situation of these workers. Closures of the territories and encirclements within them, considerable loss of income and a major increase in employment and poverty had unleashed major crises. Many of the points raised in the report are consequences of the political and military situation prevailing in the region. While this

dimension does not fall within the ILO's area of competence, its repercussions inevitably have a bearing on the social and labour issues within the organization's mandate. The report concluded that the vicious cycle of fear, suspicion and violence had had a dramatic impact on the standard of living of Palestinian workers. It has seriously impaired Palestinian employers' ability to carry out their activities and it has also affected - albeit to a far lesser extent - the productivity of Israeli enterprises of all sizes. The report suggests that addressing the problem from the standpoint of the technical issues of employment and labour may be a way to improve the overall situation. A targeted technical programme by ILO could contribute to alleviating the situation of the Arab populations concerned.

51. Based on numerous consultations, including with employers' and workers' organizations, the Office identified a new generation of projects and prepared 18 project proposals, the vast majority of which responded to the priorities set forth in the Palestinian Development Plan (PDP) for 1999-2003 drafted by the Palestinian Authority. These proposals came under five categories: promotion of employment; social protection; social dialogue; fundamental principles and rights at work; and strengthening gender mainstreaming. They had been welcomed by everyone, including donors. The September 2000 uprising prompted the Office to review its approach to technical cooperation in the Palestinian territories. It reoriented its resource mobilization strategy towards co-financing and strengthening the partnership with financing institutions (notably UNDP and the World Bank) and donor countries.

52. In 2000, the ILO continued to execute a significant technical assistance programme in the West Bank, Gaza and the Palestinian territories, totalling over US$ 4 million. Projects funded out of extrabudgetary resources in the West Bank and Gaza included the establishment of a vocational rehabilitation centre, funded by the United Arab Emirates. A national seminar on vocational rehabilitation was organized by the Office in Ramallah in December 1999, focusing on formulating a vocational rehabilitation strategy to improve the lives of persons with disabilities under prevailing conditions in Palestinian society. In the West Bank and Gaza, the Regional Office for the Arab States and the Multidisciplinary Advisory Team (MDT) Cairo (ARMAT) provided support to a workshop (August 2000) to develop a strategic action plan for the Ministry of Labour. The workshop clarified the roles and responsibilities of various departments in order to strengthen the capacity of the Ministry of Labour in addressing and promoting gender equality.

53. Further, in response to the emergency situation in the Palestinian territories and by invitation from the Director-General, a tripartite delegation from Palestine visited ILO headquarters in November 2000. The Director-General has provided instructions to set up a task force on emergency employment assistance to the Palestinian territories. Currently, field and headquarters technical units are working jointly to prepare the emergency employment and social rehabilitation technical cooperation programme and to secure funding for its implementation. The report of the Director-General to the 89th International Labour Conference concluded that Palestinian interlocutors gave clear priority to vocational training, whether in the form of assistance for establishing specialized institutions or of emergency programmes in specific sectors.

E. Gender equality

54. Gender is a cross-cutting issue in the ILO's new strategic budgeting approach. The articulation of a gender perspective in the world of work is a crucial objective of the organization. As stated by the Director-General in his 1999 report on Decent Work, building on current activities to promote equality between men and women, the ILO's aim is to examine the economic and social roles of both men and women, and to identify the forces which lead to inequality in different domains. This involves the broadening of the focus of attention from de jure achievement of equality for women to de facto results of economic policies, legislative measures and labour market outcomes for different groups of women and men.

General survey on night work of women in industry

55. The Committee of Experts submitted to the 89th session of the International Labour Conference a general survey on the four ILO instruments covering the area of night work of women. These instruments are the Night Work (Women) Convention, 1919 (No. 4); the Night Work (Women) Convention (Revised), 1934 (No. 41); the Night Work (Women) Convention (Revised), 1948 (No. 89); and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948. As the Night Work Convention, 1990 (No. 171) is closely related to the issue, the Committee of Experts took it into consideration as well. Convention No. 171 is the latest ILO instrument dealing with the issue of night work. It provides protection to men and women equally, whereas special protection is provided for women in relation to pregnancy and maternity.

56. The survey traces the evolution of ILO standards on night work by women in industry in the last 80 years. From the quasi-absolute prohibition on women's night work laid down in Convention No. 4, to the provisions of the 1990 Protocol allowing for exemptions to the prohibition contained in Convention No. 89, the Committee has examined the ILO's efforts to design international labour instruments on night work by women in industry capable of offering the best guarantees of protection while keeping up with social progress and contemporary thinking on the situation of women in the working world. The Committee observed, in this regard, that the historical development of women's night work as traced in this survey demonstrates that the question of devising measures that aim at protecting women generally because of their gender (as distinct from those aimed at protecting women's reproductive and infant nursing roles) has always been and continues to be controversial. The survey of national practice also revealed that the general trend worldwide is to provide protection for women in night work in a fashion that does not infringe their rights to equality of opportunity and treatment.

57. The Committee concluded that the record shows a clear trend to move away from the approach taken in Conventions Nos. 4, 41 and 89. At the same time, the number of member States whose national legislation continues to conform to the provisions of these Conventions is still significant. The general survey further found that there was no doubt that the present trend was to move away from a blanket ban on night work for women in industry and to give the social partners at the national level the responsibility for determining the extent of the permitted exemptions. It is also evident that more attention is now being paid to regulating night work for both men and women. Many countries - some of which draw upon the technical assistance of

the ILO - are in the process of easing or eliminating legal restrictions on women's employment during the night with the aim of improving women's opportunities in employment and strengthening non-discrimination. The Committee was pleased to note that this trend is not limited to regions or countries which have already reached a certain stage of social or economic development, but often extends to countries where social attitudes and stereotypical views about the position of women in the labour market persist. While expressing its firm hope that such a trend will continue, the Committee considered it necessary to emphasize that a process of revision of existing standards should not result in a legal vacuum with night workers being deprived of any regulatory safeguards. Night work is generally considered to have harmful effects for all workers and calls for a regulatory legal framework.

58. The Committee concluded that Convention No. 89, as revised by the 1990 Protocol, retains its relevance for some countries as a means of protecting those women who need protection from the harmful effects and risks of night work in certain circumstances, while acknowledging the need for flexible and consensual solutions to specific problems and for consistency with modern thinking and principles on maternity protection. The Committee considered it necessary that, in addition to encouraging the ratification of Convention No. 171, greater efforts should be made to help those constituents who are still bound by the provisions of Convention No. 89, and who are not yet ready to ratify Convention No. 171, to realize the advantages of modernizing their legislation in line with the provisions of the Protocol.

Technical cooperation activities

59. During the past biennium, ILO has continued its technical cooperation activities to improve the situation of women workers in a number of regions. The following illustrates some of the activities undertaken with regard to women workers, but gender concerns are also taken into account in all aspects of ILO activities.

60. The ILO Bureau for Gender Equality organized three special events during the special session of the United Nations General Assembly (New York, 5-9 June 2000): Women 2000 - Gender Equality, Development and Peace for the 21st Century: Decent work for women, prepared by the Gender Bureau; Women's empowerment and microfinance, organized by the ILO's Social Finance Unit and co-sponsored by UNIFEM and the Microcredit Summit Campaign; and Galvanizing action - decent work for older women, under the responsibility of the Gender Promotion Programme in conjunction with the United Nations Programme on Ageing. The report on the ILO's contribution to Beijing+5 and its follow-up was prepared for and discussed at the 279th session of the Governing Body in November 2000. The Gender Equality Bureau also conducted a panel entitled From Beijing+5 to Copenhagen+5 during the United Nations Special Session on Copenhagen+5 (Geneva, 26 June-1 July 2000). The ILO Bureau of Workers' Activities has continued its work to strengthen women's involvement with and participation in trade unions.

61. ILO's Bureau for Employers' Activities, among other activities, supported a workshop for women entrepreneurs in Bialystok, Poland (November 2000). In the Syrian Arab Republic, it conducted a needs assessment of the Industrial Businesswomen's Committee at the Chamber of Industry in Damascus and conducted a strategic planning training workshop in November 2000.

The Bureau is preparing a publication entitled "From Principle to Practice - Let's Put Gender Equality in Place", based on the results of an employers' project promoting gender equality in Africa and Asia.

62. The InFocus Programme on Child Labour (IPEC) and the Gender Promotion Branch (GENPROM) are collaborating on projects in Bangladesh and Tanzania which explore the links between decent employment for women and the reduction of child labour. The projects involve research on characteristics of women's employment and working conditions, the kinds of support structures that positively or negatively affect child labour and on the manner in which women's socio-economic empowerment can improve family and child welfare. On a practical level, model schemes are also being tested.

63. As the Worst Forms of Child Labour Convention, 1999 (No.182) calls for measures to take account of the special situation of girls, gender mainstreaming is being implemented within the IPEC programme and steps have been taken to ensure that country programmes define gender equality as a main objective. To this end, during 2000, IPEC initiated a gender review of its programmes, both on the operational side, as well as the policy design, advocacy and implementation.

64. ILO has developed a database containing information on national laws and policies and measures of the corporate sector for promoting equality of opportunity and treatment for women and men in employment and occupation. The database is to act as an easily accessible source of information for academic research and for government and non-governmental organizations and companies seeking to develop or strengthen their own policies and practices.[14]

65. The Government Administration and Labour Law Department has taken a three-pronged approach to the elimination of discrimination in employment, focusing on: labour law formulation and reform, research, and labour administration audits and projects. In the technical advice and comparative labour law expertise given to member States, the Department consistently uses the Declaration and the core conventions on equality as reference points. Conventions Nos. 100 and 111 and the Workers with Family Responsibilities Convention, 1981 (No. 156) are used for definitional purposes (especially for "equal pay" and "discrimination in opportunity and treatment"), and as models for the drafting of substantive provisions in this area. Increasingly, sections on affirmative action for certain groups disadvantaged in employment, and sexual harassment provisions, are also requested for inclusion in drafts.

66. The Freedom of Association Branch has recently focused on gender aspects of freedom of association for workers in export processing zones (EPZs), education and agriculture, as well as raising issues concerning the promotion of gender equality through collective bargaining. In this context, a national tripartite workshop on the implementation of Conventions Nos. 87 and 98 was held in Colombo from 18 to 21 January 2001, with a particular emphasis on the difficulties facing female workers in EPZs.

67. The ILO's Turin Training Centre conducted a number of interregional and regional activities promoting ILO standards on gender-related issues. Last year, the Centre organized numerous activities focused on the promotion of standards and the Declaration, which dealt with

the issues of discrimination and equality. Various activities were exclusively focused on equality issues, including seminars and training workshops in Brazil, Pakistan, Bosnia and Herzegovina and Albania, as well as in Geneva and Turin.

F. Migrant workers

68. The ILO's principal activities in regard to international migration for employment have consisted of four main approaches: (1) assisting countries in policy formulation, adopting legislation and strengthening legislation for effective management of labour migration; (2) strengthening knowledge and statistics to improve the monitoring of migration flows and their impact; (3) promoting the adoption of ILO standards and implementing programmes to protect the rights and dignity of migrant workers; and (4) fostering cooperation in combating discrimination, abuse, exploitation and trafficking of migrants.

69. The situation of migrant workers remains a matter of concern, particularly in countries that have not yet ratified either of the relevant ILO conventions and where national legislation and practice are often far from consistent with ILO principles.

70. The ILO has responded to several new or ongoing requests for technical assistance and specialized advice on the formulation of national migration policies and programmes and the promotion of new national frameworks for the prevention of discrimination against migrant workers. With ILO support, significant steps have been taken by several countries, notably Costa Rica, Indonesia, the Republic of Korea, Spain, Sweden and Tajikistan, to adopt policies or enact new legislation based on ILO principles and guidelines for protection and welfare of migrant workers. The ILO has cooperated extensively with the International Migration Policy Programme in providing training to senior government migration officials in Central Asia and the Caucuses, Eastern Europe and Southern Africa, particularly regarding issues of protection of human and labour rights of migrant workers. In order to promote recognition of contributions by migrant workers to their host and home countries, the Office helped initiate a recommendation adopted last year by the Commission on Human Rights which led to the proclamation of 18 December as International Migrants Day by the United Nations General Assembly.

71. During 2000, the work of the International Migration Branch in documenting and identifying remedies for discrimination in employment against migrant and ethnic minority workers has been reviewed and strengthened. A tripartite High-Level Meeting on Achieving Equality in Employment for Migrant Workers (Geneva, 8-11 March 2000) was held to assess the seven-year ILO project "Combating discrimination against migrant and ethnic minority workers" conducted in Belgium, Canada, Denmark, Finland, France, Germany, Italy, the Netherlands, Spain, Sweden, the United Kingdom and the United States. A report of the meeting contains various new directions and initiatives for continuing ILO work aimed at reducing discrimination against, and promoting equality of opportunity for, migrant and immigrant workers. A follow-up activity is under way to compile an international compendium of profiles of "best practice" measures and activities found to be effective in combating discrimination.

72. Joint research efforts to identify and disseminate good practice remedies for discrimination have been initiated by the Office in cooperation with a research institute in Ireland and with the Council of Europe Expert Working Group on Integration. ILO participated

in a national conference, Ireland - Racist or Multicultural, organized by the Irish Congress of Trade Unions in Dublin (September 2000), at the annual conference of the European Research Forum on Migration and Ethnic Relations held in Brussels (November 2000) and at the seminar on Addressing Discrimination in Employment in Flanders, organized by the Office of the Minister of Labour of Flanders (region), Belgium (December 2000). Experience and policy recommendations resulting from this ILO activity are contributing to the preparation process for the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to be held in Durban from 31 August to 7 September 2001.

G. Indigenous and tribal peoples

73. With regard to the application of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Committee of Experts noted recently that this was the most comprehensive instrument of international law for the protection in law and in practice of the right of indigenous and tribal peoples to preserve their own laws and customs within the national societies in which they live. The Committee pointed out that Convention No. 169 establishes minimum rights which must be respected and put into practice by the States which ratify it, with a view to the protection of the 300 million members of indigenous and tribal peoples acknowledged to exist around the world. The application of the Convention is extremely complex and may have a profound impact which may go even to the heart of the constitutional order of ratifying States. Its ratification may imply the adoption of new national standards or the adaptation of existing standards to define under the Convention a new relation between Governments and national societies and indigenous and tribal peoples.

74. The Committee of Experts also stressed that one of the fundamental precepts of this Convention is that a relationship of respect should be established between indigenous and tribal peoples and the States in which they live, a concept which should not be confused with autonomy or political and territorial independence from the nation State. It is important to note that the Convention has had a great influence in many countries, even before its ratification. For example, it served as a point of reference for the conclusion of a peace agreement and the signing of a specific accord on the dignity and rights of the indigenous peoples of Guatemala. It has also helped to orient, or to serve as a point of reference, for discussions on the situation of indigenous and tribal peoples in other countries. Finally, the Convention has also had a significant impact on other instruments of international law and in other international organizations, in particular in the discussion in the Commission on Human Rights of a draft declaration of indigenous rights and, in the Americas, in the discussion of a new instrument on indigenous rights by the Organization of American States.

75. Another important point is that the Convention has served as guidance for a number of decisions of several supreme courts in the Americas. This has illustrated the capacity of the Convention to influence the positive law of these countries and to help modify the relations of power in the political dialogue between the indigenous and tribal peoples and national Governments. The fact of several recent representations under article 24 of the ILO Constitution alleging non-observance of the Convention by member States demonstrates an increasing tendency for the Convention to be a valuable instrument for the protection of the rights of these peoples. The principles contained in the Convention may also serve as a common ground for the

future work of the newly established Permanent Forum on Indigenous Issues. The ILO cooperates closely with Office of the High Commissioner for Human Rights and relevant agencies and organizations with a view to supporting the initial phase of the Permanent Forum.

76. A significant development that has taken place recently has been the creation of an internal Task Force on Indigenous and Tribal Peoples - the first of its kind to be established within the ILO. This Task Force is intended to increase cooperation and coordination among various sectors of the ILO whose work is related - either directly or indirectly - to indigenous and tribal peoples. The Task Force will enable the ILO to address more effectively questions concerning indigenous and tribal peoples, and to coordinate its programmes and projects to ensure that their needs and priorities are fully acknowledged.

77. Traditionally, most ILO work on this subject has been carried out in Latin America, but in recent years it has expanded into both Africa and Asia. The technical cooperation project financed by the Danish International Development Agency (DANIDA), set up to promote ILO policy on indigenous and tribal peoples within the framework of ILO Conventions Nos. 107 and 169, continued its activities at the country, subregional and international levels.

78. During 2000, the Interregional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Cooperatives and Self-Help Organizations (INDISCO) continued its work on projects in the Central African region, Tanzania, the Philippines, India, the Lao People's Democratic Republic, Viet Nam and Belize. The Programme seeks to empower indigenous and tribal peoples through assisting their own community-based organizations. In a wide range of fields, including traditional livelihoods, ancestral domains and education, INDISCO has assisted indigenous and tribal peoples to counter discrimination. In the Philippines, indigenous communities are being supported to organize themselves and to claim titles for their ancestral domains and their right to continue practising and strengthening their traditional livelihoods. In the Indian States of Gujarat, Bihar and Orissa, tribal self-help groups have been empowered to strengthen livelihood activities, halt out-migration and claim their rights to development. Marginalized for centuries, women's groups and self-help organizations have escaped from debt bondage and regained their rights to traditional resources and control over their own futures. Innovative research addressing the unique needs and circumstances of tribal peoples in crisis situations, such as droughts and floods, was also initiated. In northern Thailand, eliminating discrimination against tribal children has become a priority issue and activities supported local curriculum development on indigenous knowledge systems and practices for hill-tribe children as well as the organization of a workshop exploring how to incorporate local curricula into the education system for the training of tribal children

79. In the Americas, due to the ratification of Convention No. 169 by Argentina, the Buenos Aires Area Office supported the carrying out of Two Forums of Original Nations (Jornadas de las Naciones Originarias) (Buenos Aires, December 2000), organized by various indigenous communities to promote the rights of indigenous peoples. The Multidisciplinary Advisory Team in Santiago conducted three seminars on Convention No. 169 with the Provisional National Committee for the Self-Determination of Indigenous Peoples in Chile and for the Ratification of ILO Convention No. 169 (October-November 2000). The seminars were attended by approximately 50 participants per session, from the Mapuche and Rapa-Nui indigenous communities.

80. The ILO further launched its project promoting the Legal Empowerment of Indigenous Peoples in Central America and Panama, financed by the United Nations Fund for International Partnerships (UNFIP). The objective of this three-year project is to increase the ability of indigenous peoples and organizations representing them to defend their rights within the framework of their national legal systems. In Guatemala, the ILO conducted a series of consultations with the Canadian-based Centre for Human Rights and Democratic Development and the Coordinating Body for the Mayan Organizations of Guatemala (COPMAGUA) on the content and scope of an inter-American instrument on the rights of indigenous peoples, which is modelled on Convention No. 169. In Honduras, the Multidisciplinary Advisory Team conducted a legal capacity-building workshop for indigenous (Tolupanes) women and men from 24 indigenous communities (May 2000). In El Salvador, two local workshops to disseminate information on Conventions No. 169 and No. 107 were supported. In Panama, the MDT continued to provide technical assistance at the request of the President of the Legislative Assembly, to support the possible ratification of Convention No. 169 by Panama. The ILO, together with the World Bank, organized the Third Inter-Agency meeting on Indigenous Peoples (San José, 24-26 May 2000). In Mexico, a seminar on the application of Convention No. 169 is taking place at the Government's request in July 2001.

H. Workers with disabilities

81. An estimated 386 million of the world's working-age people are disabled. These people have the potential to make a valuable contribution in the workforce, as employees, entrepreneurs or employers of others. Some employers have started to tap this potential. Many Governments have introduced legislation, policies and programmes to promote employment opportunities for job-seekers with disabilities, job retention by people who acquire a disability while in employment, and return to work by those who have left their jobs due to their disability.

82. But many disabled people who are willing and able to work are unemployed - as many as 80 per cent in some countries - frequently because employers assume that people with disabilities are unable to work. Often, that is because people with disabilities have not had access to education or training in employable skills, or because the support services they require are not available, or because of unsupportive legislation and policies; sometimes, it is because buildings or transportation is inaccessible to them. These and other obstacles stand in the way of disabled people finding a job which will enable them to earn their own living, support their families and contribute to the national economy. The resulting loss is felt at every level, not only by disabled people themselves and their families, but also by employers and the wider society.

83. The ILO's objectives include the promotion of equal opportunity and treatment in employment and occupation for persons with disabilities, particularly the promotion of vocational training and employment generation to enable disabled persons to enter the labour market.[15] In 2000, a draft Code of Practice on Managing Disability in the Workplace was finalized and circulated to constituents for comment. It will be discussed at a Tripartite Meeting of Experts in October 2001.

84. A number of activities relating to the promotion of equal employment opportunities for people with mental health difficulties took place during the reporting period. A symposium on Mental Health and Work, organized jointly by the ILO, WHO and the World Federation of

Mental Health, was held at ILO headquarters in Geneva to mark World Mental Health Day on 10 October 2000. The symposium followed a two-day Global Congress on Mental Health in the Workplace: Workplace Productivity, Well-being, Rehabilitation and Risk Management, organized by World Strategic Partners and hosted by the ILO (9-10 October 2000, Geneva). Also on World Mental Health Day, the ILO launched a series of reports arising from its studies of mental health at the workplace in five countries (Finland, Germany, Poland, the United Kingdom and the United States). These studies, carried out in 1999 and 2000, focused on policies, programmes and employer practices that help contain disability costs and promote mental health, particularly in relation to depression, which has been identified by WHO as a leading cause of mental disability. A joint WHO-ILO monograph entitled "Mental Health and Work: Impact, Issues and Good Practices" was also launched on 10 October 2000. These publications were distributed at the United Nations observance of World Mental Health Day in New York on 12 October 2000. A number of activities have also been carried out in ILO member States.

I. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

85. Given the specific mandate and experience of the ILO as regards non-discrimination in employment and occupation, the situation of migrant workers and indigenous and tribal peoples, the Office has taken an active part in the preparations for the World Conference. In his message on the occasion of the International Day against Racism on 21 March 2001, the Director-General set out the ILO's aim of promoting awareness of the importance of combating and eradicating racism, racial discrimination, xenophobia and related forms of intolerance in and through work. Also, economic and social effects of such discrimination, including poverty, exclusion and marginalization, need to be addressed. The ILO further emphasizes the importance of promoting and observing relevant ILO standards, including the 1998 Declaration on Fundamental Principles and Rights at Work, which includes the principle of non-discrimination. The ILO underlined the need to take specific steps to protect migrant workers and indigenous peoples from racism, racial discrimination and xenophobia. As regards child labour, the ILO stresses the linkage among poverty, racism and related intolerance, and child labour practices. Another crucial issue is the involvement and participation of employers and workers in the development and implementation of non-discrimination polices and programmes, including at the enterprise level. Education and training as a measure of prevention is as important as is establishing and strengthening institutions, procedures and other remedial action for victims of racism, racial discrimination, xenophobia and related intolerance in the world of work.

86. The ILO has participated in all the regional preparatory meetings, the expert seminars convened by the United Nations High Commissioner for Human Rights and the two sessions of the Preparatory Committee held so far in 2000 and 2001 respectively, as well as other events. Involvement in the Commission on Human Rights and the General Assembly under the relevant agenda items was used to draw attention to issues of concern to ILO, including through the submission of reports.[16] The ILO has provided concrete suggestions for the draft declaration and programme of action to be adopted by the World Conference, which have been taken up in the elements for such a document provided by the World Conference secretariat. The ILO continues to follow actively the process of negotiation regarding the final documents. It works closely with interested delegations, other international organizations, and the International Confederation

of Free Trade Unions (ICFTU) and other non-governmental organizations. A joint lobbying effort with IOM and UNHCR has been made as regards migration and refugee concerns. The Office is also undertaking several studies and projects, which are intended to contribute positively to the process. An intersectoral task force on the World Conference has been established in the Office. The ILO Governing Body decided that the organization will be represented in Durban by a high-level tripartite delegation.

87. The Office cooperates closely with the Office of the High Commissioner for Human Rights in preparing for the Conference. This includes the joint organization of a series of panels on racism in the world of work. A first panel discussion, hosted by the High Commissioner for Human Rights, Mary Robinson, and the Director-General of the ILO, Juan Somavia, was held on 30 May 2001 during the second session of the Preparatory Committee. The purpose of the panel was to draw attention to manifestations of discrimination in the workplace, examples of problems this raises and various ways in which they can be addressed, including at the enterprise level. The panel was intended to lead up to a subsequent panel to be held during the World Conference in Durban wherein it is hoped to gain commitments of Chief Executive Officers within the Global Compact to the elimination of discrimination and the promotion of equality and diversity with dignity in the workplace. A further panel will focus on policies and activities at the enterprise level to combat discrimination and promote equality and diversity.

Notes

[1] International Labour Office, Stopping Forced Labour, Global Report under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, 2001. The report may also be consulted on the ILO Internet site (http://www.ilo.org/declaration).

[2] International Labour Conference, 89th session, 2001: Report V (1): Promotion of cooperatives.

[3] Including: the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Minimum Age Convention, 1973 (No. 138), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Workers with Family Responsibilities Convention, 1975 (No. 156), and the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).

[4] The last report, as contained in document E/CN.4/Sub.2/1999/24, indicated ratifications as of 8 July 1999.

[5] International Labour Conference, 89th session, 2001: Report III (Part 1A): Report of the Committee of Experts on the Application of Conventions and Recommendations, paras. 82-146.

[6] ILO Governing Body, Working Party on the Social Dimensions of Globalization, November 2000, GB.279/WP/SDG/2.

[7] ILO Governing Body, Working Party on the Social Dimensions of Globalization, June 2001, GB.281/WP/SDG/1.

[8] International Labour Conference, 89th session, 2001: Report VI: Social security: issues, challenges and prospects.

[9] International Labour Office, Seventh survey on the effect given to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, Part I: Analytic report of the working group on the reports submitted by Governments and by employers' and workers' organizations, Part II: Summary of reports submitted by Governments and by employers' and workers' organizations, 2001. Further information on this issue see http://www.ilo.org/public/english/employment/multi/tridecl/index.htm.

[10] International Labour Conference, 89th session, 2001: Report III (Part 1 A): Report of the Committee of Experts on the Application of Conventions and Recommendations. Copies of the Committee's annual report are regularly furnished to the Office of the High Commissioner for Human Rights and are available on request for members of the Sub-Commission. The ILOLEX Database, which can be accessed through ILO's Web site (www.ilo.org) is a useful tool to consult the observations of the Committee of Experts.

[11] The countries concerned were Colombia, Ecuador, Denmark.

[12] The Code of Practice is available on the Internet Web site of the ILO Programme on HIV/AIDS and World of Work, http://mirror/public/english/protection/trav/aids/index.htm.

[13] International Labour Conference, 89th session, 2001: Report III (Part 1 A): Report of the Director-General - Appendix: Report on the situation of workers of the occupied Arab territories.

[14] See http://mirror/public/english/employment/gems/eeo/index.htm.

[15] See http://mirror/public/english/employment/skills/disability/diswork.htm.

[16] For the most recent report on the issues of non-discrimination and the World Conference see E/CN.4/2001/22.

ANNEX

Ratification of ILO Conventions relevant to the concerns of the Sub-Commission

Convention	Total ratifications	Since last report[a]
Forced Labour		
No. 29	158	Eritrea, Gambia, Kazakhstan, Malawi, Republic of Moldova, Namibia, Rwanda, Yugoslavia
No. 105	154	Azerbaijan, Bosnia and Herzegovina, Cambodia, Congo, Eritrea, Gambia, India, Kazakhstan, Malawi, Namibia, Saint Kitts and Nevis, Tajikistan, Togo, Ukraine
Discrimination		
No. 100	153	Bahamas, Cambodia, Congo, El Salvador, Gambia, Kazakhstan, Kenya, Republic of Moldova, Papua New Guinea, Saint Kitts and Nevis, Seychelles, South Africa, Yugoslavia
No. 111	149	Bahamas, Bahrain, Cambodia, Congo, Eritrea, Gambia, Kazakhstan, Luxembourg, Papua New Guinea, Saint Kitts and Nevis, Seychelles, Yugoslavia
No. 156	33	El Salvador, Iceland, Republic of Korea, Ukraine, Yugoslavia
Freedom of Association		
No. 87	136	Angola, Bahamas, Cambodia, Eritrea, Gambia, Georgia, Kazakhstan, Libyan Arab Jamahiriya, Malawi, Papua New Guinea, Saint Kitts and Nevis, United Republic of Tanzania, Yugoslavia
No. 98	149	Cambodia, Congo, Eritrea, Gambia, Kazakhstan, Saint Kitts and Nevis, Seychelles, Switzerland, Yugoslavia
Migrant Workers		
No. 97	41	-
No. 143	18	-

[a] The last report indicated ratifications as of 8 July 1999.

Convention	Total ratifications	Since last report[a]
Indigenous and Tribal Peoples		
No. 107	27	No longer open for ratification
No. 169	14	Argentina
Minimum Age		
No. 138	109	Angola, Austria, Barbados, Belize, Benin, Burundi, Cambodia, Central African Republic, Colombia, Congo, Ecuador, Eritrea, Gambia, Iceland, Japan, Kazakhstan, Kuwait, Madagascar, Malawi, Republic of Moldova, Morocco, Namibia, Panama, Papua New Guinea, Senegal, Seychelles, South Africa, Sri Lanka, Switzerland, United Kingdom, Yemen, Yugoslavia, Zimbabwe
No. 182	82	Angola, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brazil, Bulgaria, Canada, Central African Republic, Chad, Chile, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Finland, Gabon, Ghana, Guyana, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Jordan, Kenya, Republic of Korea, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Mongolia, Morocco, Namibia, New Zealand, Nicaragua, Niger, Norway, Oman, Panama, Papua New Guinea, Paraguay, Philippines, Portugal, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Senegal, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Togo, Ukraine, United Kingdom, United States, Viet Nam, Yemen, Zimbabwe
Vocational Rehabilitation		
No. 159	73	Côte d'Ivoire, Italy, Republic of Korea, Lebanon, Luxembourg, Mexico, Turkey, Yugoslavia

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